

# EXHIBIT M

JOSE DOMENECH

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

-----  
STACIE McGUIRE,

Plaintiff,

-vs-

TOWN OF CHEEKTOWAGA,  
BRIAN WESOLOSKI, Individually and in his capacity as a  
Town of Cheektowaga Police Officer,  
JOSE DOMENECH, Individually and in his capacity as a  
Town of Cheektowaga Police Officer,  
DENNIS KUSAK, Individually and in his capacity as a  
Town of Cheektowaga Police Officer,  
PAT CHLUDZINSKI, Individually and in his capacity as a  
Town of Cheektowaga Police Officer,  
JOHN DOE(s), Individually and in his/her capacity as a  
Town of Cheektowaga Police Officer, and COREY MCGUIRE,

Defendants.  
-----

Examination Before Trial of

JOSE DOMENECH, Defendant, taken pursuant to Notice under  
Article 31 of the Civil Practice Law and Rules, in the law  
offices of CHELUS, HERDZIK, SPEYER & MONTE, P.C., 1000 Main  
Court Building, 438 Main Street, Buffalo, New York, taken on  
October 21, 2022, commencing at 10:05 A.M., before LESLIE E.  
PINZONE, Notary Public.

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Full DIR report that was completed by  
Corey McGuire in the November 8th, 2017  
incident

## 1 APPEARANCES:

2 RUPP BAASE PFALZGRAF CUNNINGHAM LLC,  
3 By CHAD A. DAVENPORT, ESQ.,  
4 and YOUNG WOO KIM, ESQ.,  
5 1600 Liberty Building,  
6 424 Main Street,  
7 Buffalo, New York 14202,  
8 Appearing for the Plaintiff.

9 CHELUS, HERDZIK, SPEYER & MONTE, P.C.,  
10 By NICHOLAS M. HRICZKO, ESQ.,  
11 1000 Main Court Building,  
12 438 Main Street,  
13 Buffalo, New York 14202,  
14 Appearing for the Defendants.

15 (The following stipulations were entered  
16 into by both parties.)

17 It is hereby stipulated by and between counsel  
18 for the respective parties that the oath of the  
19 Referee is waived, that filing and certification  
20 of the transcript are waived, and that all  
21 objections, except as to the form of the  
22 questions, are reserved until the time of trial.

23 J O S E D O M E N E C H,  
3223 Union Road, Cheektowaga, New York 14227,  
after being duly called and sworn,  
testified as follows:

1 EXAMINATION BY MR. DAVENPORT:

2

3 Q. Officer, my name is Chad Davenport, we met a  
4 little bit earlier in the lobby today. I'm with  
5 the law firm of Rupp Baase Pfalzgraf Cunningham,  
6 we represent the Plaintiff in this lawsuit.

7 My first question for you is have you ever  
8 given sworn deposition in a deposition setting  
9 before?

10 A. No.

11 Q. Okay. So because you haven't, I'm just going to  
12 go through a couple ground rules that we  
13 typically tell witnesses. The first one is that  
14 we have a court reporter who is here today, so  
15 that means that we can't be speaking at the same  
16 time. So I would just ask that you wait until I  
17 finish my question before you respond to it, and  
18 I'll do the same and make sure that I don't cut  
19 off any of your responses.

20 The second thing is that she can only take  
21 verbal responses. So just refrain from using  
22 head nods or head shakes in response to any of my  
23 questions.

1           The third thing is if at any point you don't  
2 understand my questions, that happens quite  
3 often, I ask bad questions, sometimes I misspeak.  
4 So what I ask is if at any time you don't  
5 understand the question or you need me to repeat  
6 a question, just tell me. More than happy to  
7 repeat or rephrase the question.

8           And then the last one is if at any point you  
9 need to take a break, just let me know. More  
10 than happy to oblige. We're not holding you  
11 hostage in here, so if you have to go to the  
12 bathroom, want to talk with your attorney, that's  
13 perfectly fine. I just ask that you respond to  
14 any question if there's a pending question. Can  
15 you do that for me?

16 A. Okay. Yes.

17 Q. Okay. Now, Officer, you're with the Town of  
18 Cheektowaga Police Department, is that correct?

19 A. Yes.

20 Q. Okay. And how long have you been with the Town  
21 of Cheektowaga Police Department?

22 A. A little over sixteen years.

23 Q. So that would have you starting roughly in the

1 mid 2000's?

2 A. January, 2006, to be exact.

3 Q. Okay. And when you started, what was your  
4 position with the Town of Cheektowaga?

5 A. Patrolman.

6 Q. Okay. Is that still your position today?

7 A. No.

8 Q. What's your position today?

9 A. I'm currently a sergeant.

10 Q. And when were you promoted to sergeant?

11 A. I was promoted September, 2021.

12 Q. And were you promoted from patrol to sergeant?

13 A. Yes.

14 Q. Okay. So those are the two positions that you've  
15 held throughout your time at the Town of  
16 Cheektowaga?

17 A. Yes.

18 Q. Okay. Now, we're here today to talk about an  
19 incident that happened on November 8th of 2017.  
20 Your position at that time was patrol, is that  
21 correct?

22 A. Yes.

23 Q. Okay. Are you familiar with the incident that



1           took place on November 8th of 2017?

2       A.   Yes.

3       Q.   Okay. Did you respond to an incident involving  
4           Stacie McGuire and Corey McGuire?

5       A.   Yes.

6       Q.   Now, prior to your deposition testimony today,  
7           did you review any documents to prepare yourself  
8           for this deposition?

9       A.   Yes, I did.

10      Q.   And what documents were those?

11     A.   I reviewed the domestic incident report or police  
12          report, the -- we call it a CAD card. Basically  
13          when you make the 911 call, the information and  
14          the address. And that is about it. I don't  
15          remember anything other documents, just the  
16          police report.

17     Q.   Okay. Now, do you recall what happened on  
18          November 8th, 2017 and this incident involving  
19          Stacie McGuire and Corey McGuire?

20     A.   I remember some of it, yes.

21     Q.   Okay. Can you describe generally what you  
22          remember?

23     A.   I remember responding to that address for a

1 domestic disturbance. We interviewed both  
2 parties, we ended up making an arrest of the  
3 female, Miss McGuire. That's really the gist of  
4 it.

5 Q. Okay. And when you say we received a call, who  
6 is we?

7 A. So on that day I rode with a partner, and that  
8 was Officer Wesoloski. So we rode together that  
9 day.

10 Q. And was Officer Wesoloski, was he your partner at  
11 that time?

12 A. Yes.

13 Q. Okay. So typically, you would ride with Officer  
14 Wesoloski?

15 A. Yes.

16 Q. And on November 8th of 2017, you were riding with  
17 Officer Wesoloski?

18 A. Yes.

19 Q. Now, when that call initially came in, did that  
20 come in over dispatch while you were in your  
21 police vehicle?

22 A. Yes.

23 Q. And you and Officer Wesoloski were in the vehicle

1 at the same time when that call came in?

2 A. Yes.

3 Q. Do you remember what that call was from dispatch,  
4 what they said?

5 A. I don't remember the specifics, no. Just that it  
6 was a domestic dispute.

7 Q. Do you recall where that domestic dispute was  
8 taking place?

9 A. Yes. It was 22 Christa Place.

10 Q. Now, prior to November 8th of 2017, were there  
11 any reports of domestic disturbances at 22  
12 Christa Place?

13 A. That I don't know.

14 Q. What about after November 8th of 2017?

15 A. That I also don't know.

16 Q. Okay. Prior to November 8th of 2017, had you  
17 ever responded to 22 Christa Place for any calls  
18 for service?

19 A. Not that I remember, no.

20 Q. Okay. When the call initially came in with you  
21 and Officer Wesoloski in the vehicle, which one  
22 of you responded to dispatch?

23 A. I don't remember.

1 Q. Okay. Did you have any communications with  
2 dispatch on November 8th of 2017?

3 A. Me personally or the two of us?

4 Q. You personally.

5 A. I don't remember.

6 Q. Okay. What about Officer Wesoloski, do you  
7 recall any conversations that he had with  
8 dispatch on November 8th of 2017?

9 A. No, I do not.

10 Q. Okay. When you received that call for service  
11 for a domestic disturbance, where were you?

12 A. I don't remember.

13 Q. Okay. Do you recall, were you and Officer  
14 Wesoloski on patrol at the time?

15 A. Yes.

16 Q. So you weren't responding to a different call and  
17 then had to leave that call to go to that  
18 domestic disturbance?

19 A. Not that I remember, no.

20 Q. Now, do you recall approximately how long it took  
21 you from that initial call for service to  
22 actually respond to 22 Christa Place?

23 A. No, I don't.

1 Q. And do you recall when you first initially got to  
2 22 Christa Place?

3 A. Do you mean what time?

4 Q. Approximately what time.

5 A. No, I don't.

6 Q. Okay. When you first arrived at 22 Christa  
7 Place, did you and Officer Wesoloski park your  
8 police vehicle?

9 A. Yes.

10 Q. Who was driving at that time?

11 A. I, I don't know who was driving.

12 Q. Okay. Where did you park your police vehicle?

13 A. I believe it was just in the street there in  
14 front of the house.

15 Q. And then after you parked your vehicle, did both  
16 of you get out of the vehicle immediately?

17 A. I don't remember.

18 Q. Do you recall any conversations between you and  
19 Officer Wesoloski about responding to this  
20 incident?

21 A. No.

22 Q. And when you and Officer Wesoloski parked at 22  
23 Christa Place, were there any other law

1 enforcement officers there at that time?

2 A. No, not at that time.

3 Q. So you and Officer Wesoloski were the first two  
4 to respond to the scene?

5 A. Yes.

6 Q. Okay. Now, you and Officer Wesoloski, I'm  
7 assuming, went from your police vehicle  
8 immediately to the front door of the house?

9 A. I don't remember where exactly the house -- where  
10 exactly on the house we went to.

11 Q. Okay. Did you immediately go towards a door that  
12 would enter into the house?

13 A. Yes.

14 Q. Okay. And did you and Officer Wesoloski -- was  
15 the door open, I guess?

16 A. I don't remember.

17 Q. Did you and Officer Wesoloski knock on the door  
18 before entering?

19 A. I don't remember.

20 Q. Okay. Did you announce yourselves as police  
21 officers before entering into the house?

22 A. I don't remember that either.

23 Q. When you and Officer Wesoloski first went into

1 the house, what did you see?

2 A. I don't really remember if we spoke to him first  
3 or her first. I don't remember how that came  
4 about.

5 Q. Where were they at that time?

6 A. I don't remember that either.

7 Q. Were they together?

8 A. I don't believe so, but I don't, I don't  
9 remember.

10 Q. Okay. And the first thing you said that you did  
11 is you guys separated the two of them to be able  
12 to speak to them?

13 A. Yes.

14 Q. Okay. That would be the first thing that you  
15 would do as part of your investigation?

16 A. Correct, yes.

17 Q. Okay. Now, when you and Officer Wesoloski went  
18 into the house, were there any other law  
19 enforcement officers with you at that time?

20 A. When we went into the house? I don't believe so.  
21 I believe it was just the two of us.

22 Q. After you and Officer Wesoloski went into the  
23 house, were there more law enforcement officers

1           that came?

2       A.   Eventually, yes, other law enforcement officers  
3           came.

4       Q.   Who were those other law enforcement officers?

5       A.   Sergeant Wynant responded and then I believe  
6           Officer Kusak also responded.

7       Q.   Were they both partners at that time?

8       A.   No.

9       Q.   Okay. And I believe you said, were both of them  
10           sergeants at that time?

11      A.   No. Sergeant Wynant was a sergeant, and then  
12           Officer Kusak was just another patrolman.

13      Q.   Okay. Now, when responding to a domestic  
14           incident, is it part of your normal procedure to  
15           have a supervisor there at the scene as well?

16      A.   No.

17      Q.   Okay. Is there any number of officers that the  
18           Town of Cheektowaga typically likes to have when  
19           investigating a domestic violence incident?

20      A.   There's no set number, but just as a officer  
21           safety we would, obviously, have more than one  
22           officer there. That would be ideal.

23      Q.   To separate Corey and Stacie, I guess, who



1       ensured that the two parties were separate in  
2       different places of the house?

3       A. I guess that would be me and Officer Wesoloski.

4       Q. Okay. Do you recall where Stacie was separated  
5       to, like where you guys placed her?

6       A. I believe she was in the living room.

7       Q. Okay. And the male, Corey McGuire, where was he?

8       A. I don't really remember, but I believe it was the  
9       kitchen.

10      Q. Okay. Now, the living room and the kitchen, do  
11      they join, do you recall?

12      A. I believe so.

13      Q. Okay. If you were sitting in the living room,  
14      would you be able to hear a conversation that was  
15      taking place in the kitchen?

16      A. I don't remember.

17      Q. Okay. What was the demeanor of Corey and Stacie  
18      when you first encountered them?

19      A. From what I remember, I believe Stacie was upset  
20      and Corey was fairly calm, from what I remember.

21      Q. Before you separated Corey and Stacie, did you  
22      and Officer Wesoloski say anything to either  
23      Corey or Stacie?

1 A. I don't remember.

2 Q. Okay. Did either of them say anything to you?

3 A. I also don't remember that.

4 Q. Okay. When you separated Corey and Stacie, who  
5 did you speak to first?

6 A. I don't remember, but I believe I spoke to Corey  
7 first.

8 Q. Okay. Was Officer Wesoloski with you at that  
9 time?

10 A. No.

11 Q. What was Officer Wesoloski doing while you spoke  
12 to Corey?

13 A. I believe he was speaking to Miss McGuire.

14 Q. Okay. Do you recall, what did Corey say to you?

15 A. Not verbatim, no.

16 Q. Generally, what did he say to you?

17 A. Basically he said him and Miss McGuire got into a  
18 verbal argument. At some point, it turned to a  
19 physical altercation and he was hit in the face  
20 and his glasses were broken. And at some point,  
21 a pipe wrench was also involved in the  
22 disturbance.

23 Q. Now, did Corey say that he was hit with the pipe

1 wrench?

2 A. I don't know if he said it right at that time,  
3 but eventually, yes, he did say he was hit with  
4 the pipe wrench.

5 Q. Did he say where he was hit on his body with the  
6 pipe wrench?

7 A. I believe it was the ribs.

8 Q. Okay. Did you make any visual observations of  
9 where he said he was hit with the pipe wrench?

10 A. No.

11 Q. Did Officer Wesoloski make any observations of  
12 where he was hit in the ribs?

13 A. I don't know.

14 Q. Approximately how long did you speak with Corey  
15 McGuire for?

16 A. I don't remember.

17 Q. And when you were speaking with Corey McGuire,  
18 were there any other officers that were with you  
19 during that conversation?

20 A. I don't remember that either.

21 Q. Okay. After speaking with Corey McGuire, what  
22 did you do next?

23 A. So at some point, obviously, me and Officer

1           Wesoloski kind of discussed, compared the stories  
2           and we kind of went from there.

3   Q.   Where did your discussion with Officer Wesoloski  
4       take place when you were comparing the stories?

5   A.   I believe the kitchen.

6   Q.   Was Corey still in the kitchen at that time?

7   A.   No.

8   Q.   Where was Corey while you and Officer Wesoloski  
9       were speaking?

10  A.   I don't remember where he went, but he wasn't in  
11       the kitchen.

12  Q.   Where was Stacie at that time?

13  A.   I believe she was still in the living room.

14  Q.   All right. Was Corey in the living room with  
15       Stacie?

16  A.   I don't remember.

17  Q.   Okay. Did you make any visual observations of  
18       injuries to Corey McGuire that day?

19  A.   Yes.

20  Q.   What were those injuries?

21  A.   He had some scratches on his face.

22  Q.   And in describing those scratches, were they  
23       severe, were they bad, what did they look like?

1 A. I believe they were bleeding, so I can't really  
2 put a word on it as severe, but I believe they  
3 were bleeding.

4 Q. Okay. Besides those scratches on Corey, were  
5 there any other injuries to him?

6 A. I don't remember any other injuries.

7 Q. What about for Stacie, did you observe any  
8 injuries to her?

9 A. I don't remember any injuries to Stacie, no.

10 Q. Okay. Did there come a time when either you or  
11 Officer Wesoloski mentioned that Stacie's eye  
12 appeared red?

13 A. I don't remember a conversation, no.

14 Q. Did there come a time where either you or Officer  
15 Wesoloski asked Corey McGuire why Stacie's eye  
16 was red?

17 A. I don't remember that either.

18 Q. Now, when you and Officer Wesoloski were speaking  
19 in the kitchen, how long did you speak for?

20 A. It was a short period of time. I don't remember  
21 exactly. It wasn't long.

22 Q. Okay. And what did the two of you generally say  
23 during that conversation?

1 A. I believe the conversation was just discussing  
2 what Corey had said and then what Stacie had said  
3 and just kind of comparing how each story was.

4 Q. Okay. Now, generally speaking at the time, what  
5 was the Town of Cheektowaga's policy or procedure  
6 for investigating a domestic violence incident?

7 A. As far as --

8 Q. Generally saying, when you first arrive at the  
9 scene, is there a correct policy or correct  
10 procedure for officers to follow when  
11 investigating alleged domestic violence?

12 A. Yeah. So usually when we first get there we  
13 separate both parties so we can kind of get each  
14 side of the story. From there, it's usually  
15 trying to find out who the primary aggressor is.  
16 That's usually how we determine who we're going  
17 to arrest or how we make an arrest.

18 Q. Now, what about in terms of collecting evidence,  
19 are there policies or procedures for collecting  
20 evidence?

21 A. I'm sure there's a policy for collecting  
22 evidence, yeah.

23 Q. What types of evidence would you be looking for

1       when you're investigating a domestic violence  
2       incident?

3       A. Weapons, photographs, anything related to the  
4       case that would be pertinent.

5       Q. And photographs of what?

6       A. Photographs of injuries, damaged property, things  
7       of that nature.

8       Q. Was that done on November 8th of 2017, were  
9       photographs taken of the damages to Corey  
10      McGuire's glasses, for instance?

11      A. I don't remember.

12      Q. What about pictures of either Stacie or Corey?

13      A. That I also don't remember.

14      Q. Also what about collecting either a supporting  
15      deposition or an affidavit from the parties, is  
16      that done by the officers?

17      A. Yes.

18      Q. Okay. When is that done?

19      A. That's done right on-scene at the time of the  
20      arrest.

21      Q. Was that done here?

22      A. I believe so, yes.

23      Q. Okay. Who took the affidavit from Corey McGuire?

1 A. I believe it was Officer Wesoloski. I believe  
2 that was his day to do reports.

3 Q. Okay. So when you say it was his day to do the  
4 reports, as your partner at the time, did you  
5 guys alternate days when you did reports?

6 A. Yes. We kind of took turns. One day was one  
7 person's day to do the reports, the next day  
8 someone else would do that.

9 Q. Okay. So to the best of your recollection, on  
10 November 8th, 2017, that was Officer Wesoloski's  
11 day to complete the report?

12 A. Yes.

13 Q. What about from Stacie McGuire, do you know, did  
14 anybody take an affidavit from her that day or a  
15 supporting deposition?

16 A. I don't believe so, no.

17 Q. Okay. Why would her statement not be notarized  
18 or put into affidavit form?

19 A. I guess -- I don't know. Because technically,  
20 she was the offender, she was arrested, so we  
21 wouldn't get a statement from her. The only  
22 statements we would have is if she made like a  
23 seven ten-thirty statement, but I don't believe



1 she made any of those.

2 Q. When you and Officer Wesoloski were comparing  
3 what Stacie and Corey told you, did you find one  
4 of them to be more credible than the other?

5 A. Yes. We found -- I found Mr. McGuire to be a  
6 little more credible.

7 Q. What about Officer Wesoloski, did he also find  
8 Corey McGuire to be more credible?

9 A. I don't remember. I'm not sure.

10 Q. Okay. Did you make the ultimate decision, then,  
11 to arrest Stacie McGuire that day?

12 A. Me personally or --

13 Q. Yes, you personally.

14 A. I think we as a group, me and Officer Wesoloski,  
15 made that decision.

16 Q. Okay. But you said that you found Corey to be  
17 more credible than Stacie, is that correct?

18 A. Yes.

19 Q. Did Officer Wesoloski agree with you that Corey  
20 was more credible?

21 A. I believe so, yes.

22 Q. Okay. What sort of factors or reasons did you  
23 give for finding Corey McGuire to be more

1       credible?

2       A.   Well, one, he had the injuries to his face that  
3       were visible, the scratches. He also had his  
4       eyeglasses were broken. Those were some of the  
5       factors that played into us thinking he was more  
6       credible.

7       Q.   Did Stacie explain to you how, in her version of  
8       the events, Corey's face ended up having the  
9       scratches and the glasses were broken?

10      A.   I don't remember.

11      Q.   Okay. Did Officer Wesoloski ever explain to you  
12      what Stacie's reasoning was for why there were  
13      scratches on Corey's face and his glasses were  
14      broken?

15      A.   I don't remember that.

16      Q.   You don't remember Officer Wesoloski ever telling  
17      you about Stacie's story?

18      A.   He told me, but I don't remember what her story  
19      was.

20      Q.   Okay. When you and Officer Wesoloski were  
21      speaking, were there other Town of Cheektowaga  
22      police officers that were there?

23      A.   At some point Sergeant Wynant was there and was

1       also involved in our conversations.

2       Q.   Were there any other law enforcement officers  
3       besides the Town of Cheektowaga that responded to  
4       the scene that day?

5       A.   No.

6       Q.   Now, you said it was Sergeant Wynant that was  
7       part of the conversation with you at that time?

8       A.   Eventually, yes.

9       Q.   Okay. At what point did Sergeant Wynant become  
10       part of the conversation with you and Officer  
11       Wesoloski?

12       A.   Like I said, he wasn't there originally, but at  
13       some point he did show up. I don't remember how  
14       far along that was, but at some point, we did  
15       confirm with him as well.

16       Q.   Did Sergeant Wynant decide to speak with either  
17       Corey or Stacie himself?

18       A.   I don't remember if he did.

19       Q.   Okay. When Sergeant Wynant became part of the  
20       conversation between you and Officer Wesoloski,  
21       was that before or after you had made the  
22       decision to arrest Stacie McGuire that night?

23       A.   That was before.

1 Q. Okay. Did Sergeant Wynant assist you or indicate  
2 any sort of agreement to arrest Stacie McGuire?

3 A. I would say he assisted us. I don't think he had  
4 any opposition to us arresting her.

5 Q. Okay. Approximately how long were you at 22  
6 Christa Place before Stacie McGuire was arrested?

7 A. I don't remember how much time it was.

8 Q. Was Stacie McGuire placed into handcuffs that  
9 night?

10 A. Yes.

11 Q. Okay. Where was she handcuffed?

12 A. On her? What do you mean like in the house or --

13 Q. Where in the house, was it outside the house?

14 A. That I don't remember if it was inside or  
15 outside.

16 Q. Okay. Who placed handcuffs on Stacie McGuire?

17 A. I also don't remember that.

18 Q. Whose car was she placed into?

19 A. I believe it was Officer Kusak's car.

20 Q. Why was it Officer Kusak's car that she was  
21 placed in?

22 A. Just a matter of we had to stay there to give  
23 paperwork, so he transported her in for us.

1 Q. Okay. Who's technically the arresting officers  
2 for Stacie McGuire that night?

3 A. I guess it would be Officer Wesoloski and myself.

4 Q. So there's no requirement that the suspect ride  
5 in the car of the arresting officers?

6 A. No.

7 Q. Where was Stacie McGuire taken to after 22  
8 Christa Place?

9 A. She was taken to the Cheektowaga Police Station  
10 at 3322 Union Road.

11 Q. Was she taken right from 22 Christa Place to the  
12 Town of Cheektowaga Police Station?

13 A. Yes.

14 Q. Was she placed into a holding cell?

15 A. Yes.

16 Q. Who placed her into the holding cell?

17 A. That I don't know.

18 Q. At some point, did you go back to where Stacie  
19 McGuire was being kept that night?

20 A. Yes.

21 Q. Where was Stacie McGuire when you went back?

22 A. In our booking room we have a holding cell. I  
23 believe she was in the female holding cell.

1 Q. Was there anybody else who was in the female  
2 holding cell?

3 A. I don't remember.

4 Q. Did you have any conversations with Stacie  
5 McGuire?

6 A. I don't remember. I don't think so.

7 Q. At any point, did Stacie McGuire complain to you  
8 that she was being falsely arrested?

9 A. I don't remember.

10 Q. At any point, did Stacie McGuire complain to you  
11 or other officers about pain to her eye?

12 A. I don't remember that.

13 Q. Now, what was some of the paperwork that you and  
14 Officer Wesoloski were completing at 22 Christa  
15 Place?

16 A. The domestic incident report.

17 Q. And what is the domestic incident report, what  
18 does that consist of?

19 A. So pedigree information, there's some  
20 standardized state questions involving domestic  
21 violence, questions about weapons. And then it's  
22 also -- the form also has the supporting  
23 deposition that we get from the victim and

1           there's also some victim rights phone numbers and  
2           information.

3       Q.   Now, the supporting deposition that goes along  
4           with that domestic incident report, are there any  
5           other affidavits or supporting depositions that  
6           you look to take from a victim of domestic  
7           violence?

8       A.   No.

9       Q.   Okay. So that would be the primary form that you  
10           would use to take a statement from the victim of  
11           domestic violence?

12      A.   Yes.

13      Q.   Okay. And that was the policy at the time for  
14           the Town of Cheektowaga Police Department?

15      A.   I believe so, yes.

16      Q.   Okay. Is that the same policy today?

17      A.   Yes.

18      Q.   Okay.

19      MR. DAVENPORT: I'm going to have a couple of  
20           exhibits marked.

21

22                   (Whereupon, seven Photographs were then  
23           received and marked as Exhibits 1 through 7, for

1 identification.)

2

3 BY MR. DAVENPORT:

4 Q. All right. Officer, I'm going to show you what's  
5 been marked as Exhibit 1. Take some time to  
6 review it. Now, do you recognize the individual  
7 that you see in this photograph?

8 A. I mean, it's been a long time. I'm assuming  
9 that's Corey McGuire.

10 MR. HRICZKO: Don't assume. If you can't tell that  
11 that's him, you can tell Mr. Davenport that.

12 THE WITNESS: Yeah, I don't remember.

13 BY MR. DAVENPORT:

14 Q. Okay. You don't remember if that's Corey or not?

15 A. Yeah.

16 Q. Okay. All right. I'll take that back. Thanks.  
17 Now, when you're going to a domestic violence  
18 incident, is there any effort that's made by  
19 officers to see whether there's been any calls  
20 for service at that address when you're  
21 responding?

22 A. Usually, yes.

23 Q. Okay. How is that information gathered or



1           obtained?

2       A.   We can either obtain it from dispatch by asking  
3           or in the car there's a button you hit that says  
4           history and it will show previous calls to that  
5           address.

6       Q.   Now, at the time, November 8th of 2017, did you  
7           have a standard procedure that you would use?  
8           Did you request that information from dispatch or  
9           did you typically press that button to obtain the  
10          information yourself?

11      A.   Me personally, I would usually just press the  
12          button and find it out for myself.

13      Q.   Did you do that before responding to this  
14          domestic violence incident at 22 Christa Place?

15      A.   I don't remember.

16      Q.   Okay. Do you know, did Officer Wesoloski obtain  
17          any information regarding previous calls?

18      A.   I don't know that either.

19      Q.   Okay. When responding to this call, did you come  
20          to learn of any other previous calls from service  
21          made by Stacie McGuire regarding her husband --

22      A.   No.

23      Q.   -- at 22 Christa Place?

1 MR. DAVENPORT: I'm going to have this marked.

2

3 (Whereupon, a three-page Cheektowaga Police  
4 Department Complaint Information was then  
5 received and marked as Exhibit 8, for  
6 identification.)

7

8 BY MR. DAVENPORT:

9 Q. So I'm going to show you what's been marked as  
10 Exhibit 8. Do you recognize that document?

11 A. This specific document or just the form, I guess?

12 Q. I would say start with the form. Do you  
13 recognize that?

14 A. Yes.

15 Q. And what generally is this document?

16 A. It's when you call 911, this is a complaint form  
17 that's generated.

18 Q. Okay.

19 A. Or, any call, I should say. Not just 911.

20 Q. Now, in reviewing this document, does it appear  
21 that this was a 911 call for a call for service  
22 at 22 Christa Place?

23 A. Yes.

1 Q. Okay. And what was that date that that call was  
2 made?

3 A. It says on here July 9th, 2017.

4 Q. Okay. Now, when you were saying that officers  
5 may be able to obtain information about prior  
6 calls at a certain location, would this be the  
7 type of information that you and other officers  
8 would be able to see?

9 A. Yes.

10 Q. Okay. Who was the individual who made that call  
11 for 911 service?

12 A. I can't tell from looking at this.

13 Q. Does it appear that Stacie McGuire was the one  
14 who initiated that call?

15 A. Yes.

16 Q. Okay. And in looking at that first line, the  
17 narrative, does it give the reason why Stacie  
18 McGuire called 911 that day?

19 A. Yes.

20 Q. Okay. What was that reason?

21 A. Says she was afraid of her husband and he was out  
22 of control, PTSD.

23 Q. Okay. And does it say lower on that first entry

1           that a male voice could be heard in the  
2           background saying who are you on the phone with?

3   A.   It says that a female also stated the male did  
4           not know who she was on the phone with.

5   Q.   Okay. Does it say that after there was a male  
6           voice asking who she was on the phone with that  
7           she hung up?

8   A.   Yes.

9   Q.   Okay. Now, in responding to a domestic violence  
10          incident, would you be looking at this type of  
11          information about previous calls at an address  
12          before making an arrest for a domestic violence  
13          incident?

14   A.   I guess it depends.

15   Q.   Okay. Now, prior to arresting Stacie McGuire on  
16          November 8th, 2017, did you or any of your other  
17          officers review this complaint form or this 911  
18          call?

19   A.   Myself, no. I can't speak for the other  
20          officers.

21   Q.   Okay. Was there any discussion about this  
22          previous call for service?

23   A.   No.

1 Q. In reviewing that previous 911 call, would it  
2 give you and other officers concern that she had  
3 called previously for her husband and his out of  
4 control PTSD?

5 MR. HRICZKO: Form. You can answer.

6 THE WITNESS: I can answer? I'm sorry. Would you  
7 say it again?

8 MR. HRICZKO: Sorry.

9 THE WITNESS: No, that's okay.

10 BY MR. DAVENPORT:

11 Q. In responding to a domestic violence incident,  
12 would it give you and other officers with the  
13 Town of Cheektowaga concern that there had been a  
14 prior call for service for her husband's out of  
15 control PTSD?

16 MR. HRICZKO: Form.

17 THE WITNESS: Not necessarily, no.

18 BY MR. DAVENPORT:

19 Q. In evaluating who the primary aggressor was,  
20 would you take into consideration this prior call  
21 for service?

22 A. I guess it depends. It's hard to -- it depends.

23 Q. Is it concerning at all that this individual

1       seems to be hiding her call to 911 from her  
2       husband?

3       MR. HRICZKO:   Form.

4       THE WITNESS:   It's hard because I don't know the  
5       outcome of this call or how this was handled.   So  
6       I can't -- just because it says this, I don't  
7       know if that's necessarily what ended up  
8       happening after they went to that call, if that  
9       makes sense.

10      BY MR. DAVENPORT:

11      Q.   Now, at the bottom of that sheet, does it say  
12      that it ended with officers being advised?

13      A.   They were -- the two parties were advised, it  
14      says.   Stacie and Corey.

15      Q.   Okay.   That means that there was no arrest that  
16      day, right?

17      A.   Correct.

18      Q.   So when you review that 911 call, it tells you  
19      who the other officers were that responded to  
20      that previous call, correct?

21      A.   Yes.

22      Q.   So would you or other officers, in reviewing this  
23      911 call, make efforts to contact these officers

1           who responded to this previous call for service?

2   A.   It, again, it depends if it was pertinent to what  
3       they were dealing with.

4   Q.   Well, do you think that a prior call from the  
5       wife about her husband's out of control PTSD  
6       might be pertinent to decide who was the  
7       aggressor in a domestic violence incident?

8   MR. HRICZKO:   Form.

9   THE WITNESS:   I'm not sure how to answer that.   I  
10       mean, I don't know if that was the complaint that  
11       night that we went there, that his PTSD was out  
12       of control, so it's hard to --

13   BY MR. DAVENPORT:

14   Q.   And that night that you're referring to is  
15       November 8th of 2017, correct?

16   A.   Yes.

17   Q.   You were responding to a call for service from  
18       the husband saying that the wife had struck him  
19       first, correct?

20   A.   Yes.

21   Q.   So you knew that you were responding to a  
22       domestic violence incident, correct?

23   A.   Yes.

1 Q. Now, in knowing that you're responding to this  
2 domestic violence incident where the husband is  
3 claiming that the wife is the primary aggressor,  
4 would you want to look at prior calls for service  
5 and who made those prior calls for service?

6 A. I mean, you could look, yes.

7 Q. Would that be something that you would want to do  
8 to learn the truth and uncover the truth as part  
9 of your investigation?

10 A. Each call is different, so it's hard to say what  
11 happens in the past here -- you know what I mean?  
12 So it's hard to answer that.

13 Q. Right. Because I understand that the wife wasn't  
14 making complaints about her husband's PTSD, but  
15 she was making complaints on November 8th, 2017  
16 that her husband struck her, correct?

17 A. Correct.

18 Q. And choked her?

19 A. Oh, I don't know about the choking.

20 MR. DAVENPORT: I'll have this marked.

21

22 (Whereupon, a three-page New York State  
23 Domestic Incident Report was then received and



1           marked as Exhibit 9, for identification.)

2

3       BY MR. DAVENPORT:

4       Q.   All right.   Officer, I'm going to show you what's  
5           been marked as Exhibit 9.   Do you recognize  
6           generally what this document is?

7       A.   Yes.

8       Q.   And what do you recognize it to be?

9       A.   It's a domestic incident report.

10      Q.   Okay.   Now, in a domestic incident report, does  
11           it state who the individual is that is the victim  
12           or the accuser?

13      A.   Yes.

14      Q.   Okay.   And that domestic incident report, does it  
15           state who the victim or accuser is?

16      A.   No.

17      Q.   Okay.   Who completed the narrative?

18      A.   Looks like a dispatcher.

19      Q.   Okay.   Is there a statement that's on the bottom  
20           of the second page of Exhibit 9?

21      A.   Yes.

22      Q.   Okay.   Who is that statement given by?

23      A.   Stacie McGuire.

1 Q. Okay. And in that section on page two of that  
2 domestic incident report, is that typically where  
3 a statement would be written for a victim or an  
4 accuser of a domestic incident?

5 A. Yes.

6 Q. Okay. So would it be fair to say that Stacie  
7 McGuire is the individual who is the victim or  
8 accuser completing this domestic incident report?

9 A. Yes.

10 Q. Okay. Now, could you take just a moment to read  
11 her narrative? And then just let me know when  
12 you're done.

13 A. I can't read the like last line here.

14 Q. Okay. That's okay. I'm not going to be asking  
15 you questions about the last line.

16 A. Okay.

17 Q. In that affidavit or in that section of the  
18 report, she generally describes what Corey  
19 McGuire did to her on November 9th of -- or,  
20 November 8th of 2017, is that correct?

21 A. No. It's just like everything that happened  
22 after.

23 Q. Okay. What about on the first page?

1 A. What am I looking for?

2 Q. Now, on the first page, is there a date for when  
3 this domestic incident took place?

4 A. There's a reported date and occurred date.

5 Q. Okay. What's the occurred date?

6 A. This says November 9th.

7 Q. November 9th? And then in the narrative section  
8 on that first page for Exhibit 9, who completes  
9 that?

10 A. This part here?

11 Q. Yes.

12 A. That would be the whoever took the report.

13 Q. Okay. The information that that individual puts  
14 in that section, where do they get it from?

15 A. This information?

16 Q. Yes.

17 A. They get it from the victim or whoever is filing.

18 Q. Okay. So that's the officer's narrative based  
19 off of what the victim tells them?

20 A. Yes.

21 Q. Okay. Now, I guess in that Section of that first  
22 page of Exhibit 9, does it generally describe  
23 what Stacie McGuire alleges that Corey McGuire

1 did to her in November of 2017?

2 A. Yes.

3 Q. Okay.

4 MR. HRICZKO: Can we just put something on the  
5 record? For Exhibit 9, the report date is  
6 December 20th, 2017 for Exhibit 9.

7 MR. DAVENPORT: Sure. No objection.

8 BY MR. DAVENPORT:

9 Q. Now, in that narrative section, does it describe  
10 generally what Stacie McGuire alleges that Corey  
11 McGuire did to her in November of 2017?

12 A. Yes.

13 Q. Does it describe Corey McGuire choking her,  
14 punching her?

15 A. It says choking and striking.

16 Q. Okay. And when you hear striking, does that also  
17 refer to maybe somebody punching somebody?

18 A. It could be, yes.

19 Q. Okay.

20 MR. HRICZKO: Form. To that last question. Sorry.

21 BY MR. DAVENPORT:

22 Q. Now, the choking and the punching, was that  
23 something that was described or talked about by

1           you and Officer Wesoloski on November 8th of 2017  
2           when you responded to this incident?

3   A.   I don't remember.

4   Q.   Okay.  Where would you put information that was  
5           told to you by the victim and the perpetrator to  
6           you and Officer Wesoloski, where would you put  
7           that information?

8   A.   When a DIR is completed, we would put that in our  
9           narrative.

10   Q.   And you said, I think, DIR?

11   A.   It's a short term for domestic incident report.  
12           Sorry.

13   Q.   What about a police report?

14   A.   So basically, the way it works is the DIR is  
15           basically the police report.  It's just another  
16           name for it.

17   MR. DAVENPORT:  Okay.  I'm going to have this marked  
18           as Exhibit 10.

19

20                   (Whereupon, a two-page Cheektowaga Police  
21           Report was then received and marked as Exhibit  
22           10, for identification.)

23

1 BY MR. DAVENPORT:

2 Q. So, Officer, I'm going to show you what's been  
3 marked as Exhibit 10. Do you recognize generally  
4 what that document is?

5 A. Yes.

6 Q. And what do you recognize that to be?

7 A. This is a computerized version of the domestic  
8 incident report.

9 Q. So when we were talking before about where you  
10 would include information that was told to you by  
11 Corey McGuire and Stacie McGuire, that was the  
12 document that you were referring to?

13 A. Yes.

14 Q. Okay. Who completed this DIR report?

15 A. That was Officer Wesoloski.

16 Q. Okay. Is there a handwritten form of that as  
17 well?

18 A. Yes.

19 Q. Okay. And the officers complete that handwritten  
20 form?

21 A. Yes.

22 Q. Is that something that you complete at the scene  
23 of an incident?

1 A. Yes.

2 Q. Okay. And then do you take that handwritten  
3 form, bring it to your station and somebody  
4 transcribes for you?

5 A. Eventually, yes.

6 Q. Okay. Now, there's an individual named Lynn  
7 who's identified as the typist. Is she the  
8 individual that transcribed what Officer  
9 Wesoloski wrote?

10 A. Yes.

11 Q. Is Lynn somebody who worked with the Town of  
12 Cheektowaga Police Department at the time?

13 A. Yes.

14 Q. And is she somebody who would typically  
15 transcribe an officer's written DIR report?

16 A. Yes.

17 Q. Okay. Now, I want you to take some time to read  
18 that narrative that was completed by Officer  
19 Wesoloski, and then just let me know when you're  
20 done.

21 A. Okay.

22 Q. Okay. Now, do you see in that narrative section  
23 where Officer Wesoloski talks about redness to

1 Stacie McGuire's eye?

2 A. I did see that, yes.

3 Q. Was that an observation that Officer Wesoloski  
4 made?

5 MR. HRICZKO: Form. If you know.

6 THE WITNESS: I don't know that.

7 BY MR. DAVENPORT:

8 Q. Okay. Was that something that you and Officer  
9 Wesoloski discussed that night, redness to Stacie  
10 McGuire's eye?

11 A. If it was, I don't remember.

12 Q. Okay. And do you see in that narrative section  
13 where Officer Wesoloski says that he asked Corey  
14 McGuire about the redness to Stacie McGuire's  
15 eye?

16 A. Yes.

17 Q. Were you there when Officer Wesoloski asked Corey  
18 McGuire about the redness to Stacie McGuire's  
19 eye?

20 A. I don't remember.

21 Q. Okay. Does it appear from that police report  
22 that Corey McGuire told Officer Wesoloski that  
23 the redness to Stacie McGuire's eye was caused by



1 a struggle for the pipe wrench?

2 A. Yes.

3 Q. Okay. And does Corey McGuire, according to  
4 Officer Wesoloski, deny punching Stacie McGuire?

5 A. Yes. He had denied it.

6 Q. Now, had you known about the redness to Stacie  
7 McGuire's eye, what steps would you have taken to  
8 verify Corey McGuire's account of how that  
9 redness occurred?

10 A. I'm not sure what we could have done.

11 Q. Could you maybe have asked Stacie McGuire what  
12 her account was for how that redness occurred?

13 A. Yes.

14 Q. Okay. Because according to the narrative, it  
15 doesn't appear that anybody asked Stacie McGuire  
16 how her eye became red.

17 A. I don't know if that happened or not.

18 Q. Okay. Now, in that narrative section, Officer  
19 Wesoloski writes that he and other officers  
20 determined that Corey's account was more accurate  
21 and/or consistent with the injuries in evidence.

22 Do you see that?

23 A. Yes.

1 Q. Okay. As you sit here today, how was that  
2 determination made, if you can recall?

3 A. I just want to look at the line real quick, if  
4 you don't --

5 Q. Sure.

6 A. I believe it was just the totality of everything  
7 there.

8 Q. Okay. Now, when you say the totality, I mean,  
9 that narrative, it refers to injuries, correct?

10 A. Yes.

11 Q. So I guess, what were those injuries that led you  
12 and Officer Wesoloski and others to believe that  
13 Corey McGuire was more credible?

14 A. The scratches to his face and broken glasses.

15 Q. So that was used to determine that Corey McGuire  
16 was more credible because he had scratches to his  
17 face?

18 A. Part of it.

19 Q. Okay. And I guess, was that also taken into  
20 consideration for whether Stacie McGuire was  
21 credible, the redness to her eye? Was that  
22 injury taken into account for her credibility?

23 A. I don't remember the redness to her eye, so --

1 Q. Okay. Now, in addition to -- and I guess when  
2 you say the injuries for Corey McGuire, it was  
3 just the scratches to his face?

4 A. Yes.

5 Q. Okay. And then it also says that Corey's account  
6 was more accurate or consistent with injuries  
7 and/or evidence.

8 So I guess, what was that evidence that  
9 Officer Wesoloski was referring to?

10 A. I'm not sure.

11 Q. Okay. Was there any evidence at that scene for  
12 that incident?

13 A. Just the pipe wrench.

14 Q. Okay. Where was that pipe wrench found?

15 A. I don't remember where it was found.

16 Q. Okay. Was there any efforts to collect that pipe  
17 wrench to be used in a court of law?

18 A. I don't remember.

19 Q. What would be the typical steps that you as a  
20 Town of Cheektowaga Police Officer would take to  
21 protect evidence to be used in a court  
22 proceeding?

23 A. Either photography or collecting evidence.

1 Q. There were no photographs taken of the pipe  
2 wrench that night, correct?

3 A. I don't believe so.

4 Q. Okay. Why were there no photographs taken of the  
5 pipe wrench?

6 A. Yeah, I don't know.

7 Q. Okay. Why was the pipe wrench not collected for  
8 evidence?

9 A. I don't know.

10 Q. In arresting Stacie McGuire, the intention was to  
11 prosecute her for criminal charges, correct?

12 A. Yes.

13 Q. As an officer, you know that to convict somebody  
14 in a court of law you must prove beyond a  
15 reasonable doubt that that person is guilty,  
16 correct?

17 A. Yes.

18 Q. And there needs to be evidence to support that  
19 finding?

20 A. Yes.

21 Q. In initiating charges against Stacie McGuire,  
22 what was the evidence that you were going to  
23 provide to prosecutors to help them to convict

1 Stacie McGuire?

2 A. The statement of the victim, Corey McGuire.

3 Q. No further evidence would be used?

4 A. I guess just officer testimony as well.

5 Q. None of the officers were there to witness what  
6 took place between Corey and Stacie, correct?

7 A. No.

8 Q. So what would officer testimony provide in terms  
9 of proving these charges?

10 A. Yeah, I'm not sure.

11 Q. Okay. Now, at the time of this incident, you had  
12 been on the force for approximately eleven years,  
13 correct?

14 A. Yes.

15 Q. Had you ever filed charges against an individual  
16 related to a domestic violence incident  
17 previously?

18 A. Yes.

19 Q. Did any of those charges result in successful  
20 convictions?

21 A. I would imagine so. I don't know.

22 Q. Do you know, did these criminal charges result in  
23 a successful conviction of Stacie McGuire?

1 A. I don't know.

2 Q. As you sit here today, do you know what that  
3 outcome was from that criminal prosecution of  
4 Stacie McGuire?

5 A. I don't.

6 Q. In that DIR report it also lists officers who  
7 were involved in this incident, correct?

8 A. Yes.

9 Q. And there's four officers that are listed?

10 A. Correct.

11 Q. You're one of them?

12 A. Yes.

13 Q. Which officer are you?

14 A. I'm badge number nine o four, Domenech.

15 Q. Is there a fifth officer who's also listed on  
16 this DIR report?

17 A. Yes.

18 Q. Okay. Who is the fifth officer? I believe he  
19 was marked as your supervisor on the DIR.

20 A. That would be Lieutenant Chludzinski.

21 Q. Okay. Why is he marked on a DIR report?

22 A. I don't know. I don't know why he's on this one.

23 Q. Okay. Now, a supervisor for a DIR report, are

1           they the ones who check over the report to make  
2           sure it's done correct and accurately?

3   A.   Yes.

4   Q.   Besides checking over the report for accuracy and  
5           completeness, is there any other role that a  
6           supervisor would play in this DIR report or this  
7           incident?

8   A.   No.

9   Q.   Okay. I think you said that you were promoted to  
10          -- is it sergeant?

11   A.   Yes.

12   Q.   Sergeant? So oftentimes, you are probably listed  
13          as the supervisor for these types of DIR reports,  
14          correct?

15   A.   Yes.

16   Q.   Okay. And when you're listed as a supervisor,  
17          that's to indicate that you reviewed that report  
18          and you checked it, correct?

19   A.   Yes.

20   Q.   Okay. And you're responsible for its  
21          completeness and accuracy?

22   A.   Yes.

23   Q.   Okay. Now, Officer Pat, I'm going to call him

1 Pat because I cannot say his last name.

2 A. It's Chludzinski.

3 Q. Chludzinski? So Officer Chludzinski, did he ever  
4 speak to the officers about the witness accounts  
5 and who was more credible?

6 A. No.

7 Q. Was there any discussion with Officer Chludzinski  
8 about this specific incident?

9 A. No.

10 Q. Okay. Now, standard procedure at this time, you  
11 or Officer Wesoloski would hand in your paperwork  
12 for Officer Chludzinski, correct?

13 A. You turn it into a box and then -- like a mailbox  
14 and he retrieves it at some point.

15 Q. Okay. And after he retrieves it, are there any  
16 follow-up conversations with either you or  
17 Officer Wesoloski about the incident?

18 A. No.

19 Q. Typically, would there only be a follow-up  
20 conversation if there was something wrong the  
21 report?

22 A. Yeah. Yes.

23 Q. Okay. Do you recall, were there any follow-up



1           conversations with Officer Chludzinski about this  
2           specific incident on November 8th of 2017?

3   A.   No.

4   Q.   Okay.  Now, in completing this narrative, did  
5           Officer Wesoloski, would he typically confer with  
6           you?

7   A.   It depends.  Yeah.

8   Q.   Would he ask if his narrative was consistent with  
9           your recollection of the incident?

10  A.   Sometimes.

11  Q.   Did he confer with you before turning in this DIR  
12       report?

13  A.   I don't remember.

14  Q.   Now, in this incident, it lists a victim and a  
15       Defendant, correct?

16  A.   Yes.

17  Q.   Okay.  Who was the victim?

18  A.   The victim here is Corey McGuire.

19  Q.   And the Defendant was Stacie McGuire, correct?

20  A.   It's sealed on this document, so --

21  Q.   Okay.  Now, the individual who's listed as a  
22       Defendant, that's typically the individual who's  
23       being charged criminally, correct?

1 A. Yes.

2 Q. And the Defendant in this case was charged?

3 A. Yes.

4 Q. Okay. What was the defender charged with?

5 A. Criminal mischief and assault in the third  
6 degree.

7 Q. Okay. And that was based off of a statement that  
8 was given from a statement from Corey McGuire  
9 that Stacie McGuire, or the Defendant, scratched  
10 and punched Corey McGuire, is that correct?

11 A. I believe she hit him with a wrench too. I think  
12 that was part of it.

13 Q. Were one of those charges that were brought  
14 against Stacie McGuire specific to her allegedly  
15 hitting Corey McGuire with a pipe wrench?

16 A. I believe so, yes.

17 Q. Okay. Which criminal charge was that?

18 A. I believe assault.

19 Q. Now, in order to prove this assault charge, would  
20 it be required to prove that Corey McGuire was  
21 actually hit with a pipe wrench that night?

22 A. If he had injuries, it would prove the assault.

23 Q. But you never checked him for injuries, is that

1 correct?

2 A. Just visually what I could see on his face.

3 Q. But in terms of the pipe wrench, he said he was  
4 hit in the ribs, correct?

5 A. Yes.

6 Q. And that assault charge is based off of Stacie  
7 McGuire allegedly hitting Corey McGuire in the  
8 ribs with the pipe wrench, correct?

9 A. Yes.

10 Q. Okay. So how would you or other officers be able  
11 to prove or have a prosecutor prove that Corey  
12 McGuire was actually hit in the ribs with a pipe  
13 wrench?

14 A. Yeah, I don't know.

15 MR. DAVENPORT: Okay. I'm going to have this marked  
16 as Exhibit 11.

17

18 (Whereupon, a two-page Domestic Incident  
19 Report was then received and marked as Exhibit  
20 11, for identification.)

21

22 MR. DAVENPORT: Thank you.

23 BY MR. DAVENPORT:

1 Q. So, Officer, I'm going to show you what's been  
2 marked as Exhibit 11. Do you generally recognize  
3 what that document is?

4 A. Yes.

5 Q. And what is it?

6 A. It's a domestic incident report.

7 Q. Okay. In reviewing this domestic incident  
8 report, are you able to determine who the alleged  
9 victim was?

10 A. Yes.

11 Q. Okay. Who was the alleged victim?

12 A. Corey McGuire.

13 Q. Okay. And who was the alleged Defendant or  
14 perpetrator?

15 A. Stacie McGuire.

16 Q. And then just take a moment to review the  
17 narratives.

18 A. Do you want me to read this too or --

19 Q. If you'd like. So I guess I'm going to ask my  
20 question first and then you can decide --

21 A. Okay.

22 Q. -- if you want to review his narrative portion.  
23 Who completed this DIR report -- or, I'm sorry.

1           This domestic incident report?

2       A.    This is Officer Wesoloski.

3       Q.    How are you able to determine that that was  
4           Officer Wesoloski that completed this report?

5       A.    His name is on it under reporting officer.

6       Q.    Okay. Does it also give his badge number?

7       A.    Yes.

8       Q.    Okay. What was his badge number at the time?

9       A.    Nine zero five.

10      Q.    When would that report typically be completed by  
11           the officer and the victim?

12      A.    At the scene.

13      Q.    Okay. Do you know, was this report completed at  
14           the scene on November 8th of 2017?

15      A.    To the best of my knowledge, yes.

16      Q.    Were you there present when this report was being  
17           completed?

18      A.    Yes.

19      Q.    Okay. While this report is being filled out,  
20           what were you doing at that time?

21      A.    I don't remember.

22      Q.    Okay. How is a report like this completed, does  
23           the victim typically fill out most of the

1 information?

2 A. No.

3 Q. Okay. What part of that report does the victim  
4 fill out?

5 A. If any, it would be the statement.

6 Q. And then the rest of the report is completed by  
7 the officer who's completing the report?

8 A. Yes.

9 Q. So in this case for Exhibit 11, that was  
10 completed by Officer Wesoloski?

11 A. Yes.

12 Q. Okay. Now, in reviewing -- I'd like you to  
13 review Corey's statement really quick.

14 A. Okay.

15 Q. So nowhere in Corey McGuire's statement does he  
16 indicate that he either struck Stacie McGuire or  
17 strangled her, correct?

18 A. No.

19 Q. And then you had previously reviewed the first  
20 page of Exhibit 11 where the narrative that's  
21 written, that would have been completed by  
22 Officer Wesoloski, correct?

23 A. Yes.

1 Q. And that would be based on information that was  
2 provided to him by Corey McGuire, correct?

3 A. Yes.

4 Q. Okay. And in that portion on page one of Exhibit  
5 11, nowhere in there does Officer Wesoloski write  
6 that Corey McGuire told him that he struck Stacie  
7 McGuire in the face or attempted to choke her,  
8 correct?

9 A. Correct.

10 Q. And nowhere in either Corey McGuire's statement  
11 or Officer Wesoloski's statement do either of  
12 them write about any redness to Stacie McGuire's  
13 eye, correct?

14 A. Do they write about it? Write about the redness  
15 to her face?

16 Q. Yes. Write about it, identify it in that report.

17 MR. HRICZKO: I do think it's in there.

18 THE WITNESS: It's in that report.

19 BY MR. DAVENPORT:

20 Q. It's in the other DIR report that was previously  
21 marked, correct?

22 A. Yes.

23 Q. But in Exhibit 11, you don't see any redness

1 identified by either Officer Wesoloski or Corey  
2 McGuire on Exhibit 11, correct?

3 A. This is missing a page.

4 Q. Okay. So that was what was provided to us. I'm  
5 going to make a request on the record that the  
6 DIR report that was completed by Corey McGuire in  
7 the November 8th, 2017 incident, that we get the  
8 full report.

9 MR. HRICZKO: Could we just take a break? I'm going  
10 to go --

11 MR. DAVENPORT: Sure. Thank you.

12 (Whereupon, a short recess was then taken.)

13 BY MR. DAVENPORT:

14 Q. So, Officer, I understand that there may be a  
15 page missing on Exhibit 11. But based off of  
16 what you can see between the narrative written  
17 between Officer Wesoloski and what is written by  
18 Corey McGuire in front of you, you don't see any  
19 mention of redness to Stacie McGuire's eye,  
20 correct?

21 A. With the documents provided, no.

22 Q. Okay. Now, when completing -- you've completed  
23 these reports before, correct?



1 A. Yes.

2 Q. Okay. In completing this report, are there times  
3 where there are physical injuries to both the  
4 victim as well as the alleged perpetrator?

5 A. Yes.

6 Q. Okay. Do you typically mark down those injuries  
7 to both parties in your narrative or somewhere on  
8 this form?

9 A. In the narrative.

10 Q. Okay. So that would be your typical practice is  
11 to identify the injuries to both parties,  
12 correct?

13 A. Yes.

14 Q. Okay. Are there any exceptions to that general  
15 practice by you?

16 A. I don't know. I would have to think of a  
17 circumstance where I would. I don't know.

18 Q. Was that something that you were trained to do  
19 when completing these reports, to include the  
20 injuries to both parties?

21 A. I wouldn't say trained to do, but experience is a  
22 lesson.

23 MR. DAVENPORT: Okay. I'm going to have this marked

1 as Exhibit 12.

2

3 (Whereupon, a Cheektowaga Police Department  
4 Complaint Information dated 11/8/17 was then  
5 received and marked as Exhibit 12, for  
6 identification.)

7

8 MR. DAVENPORT: Thank you.

9 BY MR. DAVENPORT:

10 Q. Just really quickly, Officer. There was a  
11 discussion off the record about Exhibit 11 and  
12 Exhibit 10. What you said is that Exhibit 11 is  
13 a handwritten version of what we see in Exhibit 10?

14 A. Yes.

15 Q. Okay.

16 MR. HRICZKO: Thanks.

17 BY MR. DAVENPORT:

18 Q. I'm going to show you what's been marked as  
19 Exhibit 12. Do you generally recognize what that  
20 document is?

21 A. Yes.

22 Q. What is that document?

23 A. It's -- we call it a complaint card, the card

1       that's generated when a 911 call or call for  
2       service is made.

3       Q.   And does that complaint card identify all  
4       officers who responded to an incident?

5       A.   Generally, yes.

6       Q.   Okay.  And in reviewing Exhibit 12, does this  
7       appear to be a complaint card pertaining to the  
8       incident that we're discussing on November 8th of  
9       2017?

10      A.   Yes.

11      Q.   Okay.  In reviewing the complaint card, who does  
12      it state are the officers who responded to this  
13      call for service?

14      A.   There's myself, Officer Wesoloski, Sergeant  
15      Wynant and Officer Kusak.

16      Q.   Okay.  As you sit here today, are there any other  
17      officers who responded to this incident that are  
18      not identified in Exhibit 12?

19      A.   Not that I remember, no.

20      Q.   Okay.  Now, it states lower in the remarks  
21      section that the sub called.  Do you see that?

22      A.   Yes.

23      Q.   Okay.  What is a sub, what does that mean?

1 A. Just another party, just a term used to describe  
2 somebody that calls.

3 Q. Okay. Is it like short for anything?

4 A. Short for subject.

5 Q. Okay. And then is there another way to respond  
6 to any other individuals who are not subjects on  
7 the call?

8 A. Yes.

9 Q. Okay. What else would you use on that sheet to  
10 refer to other individuals?

11 A. Complainant, offenders.

12 Q. Is there a complainant that's identified?

13 A. Yes.

14 Q. Okay. Who is the complainant?

15 A. Corey McGuire.

16 Q. So Corey McGuire was the complainant and  
17 according to this document, Exhibit 12, Stacie  
18 McGuire was the sub, which is the subject,  
19 correct?

20 A. They have her here as offender, so --

21 Q. Okay. Offender. Now, in the remarks section  
22 there's a notation for AMR staging. Do you see  
23 that?

1 A. Yes.

2 Q. What is that, what does that mean?

3 A. That's an ambulance.

4 Q. Okay. What does it mean to stage an ambulance?

5 A. Basically means to have an ambulance on standby.  
6 Once officers made the scene safe, then they can  
7 come in.

8 Q. Is that typical practice when responding to a  
9 domestic incident to have an ambulance on  
10 standby?

11 A. I wouldn't say typical, no.

12 Q. Okay. Is it typical when responding to a  
13 domestic violence incident to have an ambulance  
14 on standby?

15 A. No.

16 Q. Who makes that call to have an ambulance on  
17 standby?

18 A. I don't really know. Anybody could make that  
19 call, a dispatcher if they saw fit or an officer.

20 Q. In reviewing Exhibit 12, are you able to identify  
21 who decided to have an ambulance on standby?

22 A. No.

23 Q. Okay. In the remarks section, do you see in the

1 middle column where it provides numbers?

2 A. Yes.

3 Q. Okay. What are those numbers, what does that  
4 refer to?

5 A. Those are dispatcher badge numbers.

6 Q. Is your badge number listed?

7 A. No. Oh, I'm sorry.

8 Q. Okay. So I think you were about to tell me that  
9 your badge number is listed. Where is it listed?

10 A. It's listed in the officer's section.

11 Q. Okay. In reviewing that number, are you able to  
12 identify who made that request for an ambulance  
13 to be staged?

14 A. No.

15 Q. Okay. What is the number that's next to AMR  
16 staging?

17 A. It's six six one.

18 Q. Does that refer to -- is that the number or call  
19 sign for any of the officers who responded to the  
20 scene?

21 A. No.

22 Q. If that number does not correspond with the  
23 officers who were at the scene, would it be safe

1 to assume that it was a dispatcher who requested  
2 that an ambulance be staged?

3 A. I don't know.

4 Q. Okay. Do you know who that call sign belongs to?

5 A. The six six one?

6 Q. Yes.

7 A. Yes.

8 Q. Who does that belong to?

9 A. It's Dispatcher Weich, W-E-I-C-H.

10 Q. If Dispatcher Weich's call sign is next to AMR  
11 staging, is he the individual who recommended or  
12 decided to have an ambulance on standby?

13 A. No, not necessarily.

14 Q. Why would his number be listed next to AMR  
15 staging, then?

16 A. That is the person who is inputting that in the  
17 computer on the actual card.

18 MR. HRICZKO: And just for the record, I think Weich  
19 is a female.

20 THE WITNESS: Yes.

21 MR. DAVENPORT: Okay. Sorry about that.

22 MR. HRICZKO: No, you're good.

23 BY MR. DAVENPORT:

1 Q. So besides that number for who input that data,  
2 we're not able to determine who the individual  
3 was that decided to have an ambulance on the  
4 scene, correct?

5 A. Correct.

6 Q. Okay. At least not using Exhibit 12?

7 A. No.

8 Q. Okay. Now, do you know why they decided to have  
9 an ambulance on standby for this call?

10 A. I don't.

11 Q. Was it due to any injuries that were observed of  
12 either Stacie or Corey McGuire?

13 A. I don't know that.

14 Q. As you sit here today, do you know, did Stacie  
15 McGuire have an injury to her eye?

16 A. I don't remember.

17 Q. Now, there's also a notation in the remarks  
18 section for OPS. Do you see that?

19 A. Yes.

20 Q. Okay. What does OPS refer to?

21 A. That refers to orders of protection.

22 Q. Okay. And by noting OPS, orders of protection,  
23 what does that remark mean, what does that



1 notation mean?

2 A. That means the two parties involved don't have an  
3 order of protection.

4 Q. So at the time you responded on November 8th,  
5 2017, that notation indicates to you that there  
6 were no orders of protection from either Corey or  
7 Stacie McGuire?

8 A. Correct.

9 Q. And would that be information that would be  
10 provided to you, the officers at the scene?

11 A. Yes.

12 Q. That would be typical for officers to know when  
13 responding to a domestic violence incident?

14 A. Yes.

15 MR. DAVENPORT: Okay. Can I have this marked as  
16 Exhibit 13? Actually, we'll mark two documents.

17

18 (Whereupon, a Town of Cheektowaga Police  
19 Department Order of Protection Policy was then  
20 received and marked as Exhibit 13,

21 and a two-page Town of Cheektowaga Police  
22 Department Procedure for Handling Prisoners with  
23 Medications was then received and marked as

1 Exhibit 14, for identification.)

2

3 BY MR. DAVENPORT:

4 Q. So, Officer, in front of you is an exhibit that  
5 had been marked as Exhibit 13, do you see that?

6 A. Yes.

7 Q. Do you generally recognize what that document is?

8 A. Yes.

9 Q. What is that?

10 A. It's a policy on domestic violence.

11 Q. Did you receive any training on that policy?

12 A. Yes.

13 Q. How often did you receive training on that  
14 policy?

15 A. I'm not sure.

16 Q. Okay. Is there a set number of times that you as  
17 officers would receive training responding to  
18 domestic violence incidents just in general?

19 A. I'm not sure if there's a set number, no.

20 Q. Do you know approximately how many times you have  
21 received training on responding to domestic  
22 violence calls?

23 A. No.

1 Q. Have you received training on domestic violence  
2 calls?

3 A. Yes.

4 Q. Has it been once or more than once?

5 A. More than once.

6 Q. Okay. Did you receive training on responding to  
7 domestic violence calls before November 8th 2017?

8 A. Yes.

9 Q. Okay. So you were generally familiar with what  
10 this policy was and what it required, correct?

11 A. Yes.

12 Q. Okay. So on the first page of Exhibit 13, do you  
13 see towards the middle under policy where it says  
14 standard operating procedure in response to  
15 domestic incidents slash violence calls?

16 A. Yes.

17 Q. Okay. Now, under sub section one, are these the  
18 steps that you as officers would expect to go  
19 through as part of responding to a domestic  
20 violence call?

21 A. This is more so for the dispatcher.

22 Q. Okay. Now, do you see under the standard  
23 operating procedure where it asks the dispatcher

1 to obtain the complaint history at that location?

2 A. Yes.

3 Q. Okay. Do you know if that was done here on  
4 November 8th, 2017 for 22 Christa Place?

5 A. I don't.

6 Q. Okay. Did you know of any complaint history at  
7 22 Christa Place when you responded on November  
8 8th, 2017?

9 A. I did not.

10 Q. But that is part of the standard procedure for  
11 responding to domestic incidents slash violence  
12 calls, correct?

13 A. For the dispatchers, yes.

14 Q. Okay. And when the dispatchers obtain that  
15 information, part of that standard procedure is  
16 to provide that information to officers, correct?

17 A. Yes.

18 Q. Okay. Now, on page two of Exhibit 13, sub  
19 section three says that an officer will restore  
20 order by gaining control of the situation and  
21 separating parties.

22 Do you see that?

23 A. Yes.

1 Q. Okay. And based off of the narrative that you  
2 gave before, that was done, Corey McGuire and  
3 Stacie McGuire were separated, correct?

4 A. Yes.

5 Q. At the time when you responded to this incident,  
6 I mean, were Stacie and Corey McGuire still going  
7 at it, were they still fighting with each other?

8 A. I don't know.

9 Q. Was there any need to take any other steps to  
10 restore order to the situation other than  
11 separating the two parties?

12 A. No.

13 Q. Okay. The second sentence says that the officers  
14 will take control of the weapons used or  
15 threatened to be used.

16 Do you see that?

17 A. Yes.

18 Q. And in this case, Corey McGuire alleged that  
19 there was a weapon that was used, correct?

20 A. Yes.

21 Q. And what was that weapon?

22 A. A pipe wrench.

23 Q. Okay. Did officers or you take control of that

1 pipe wrench?

2 A. I don't remember.

3 Q. Okay. Do you know where that pipe wrench was?

4 A. No, I don't remember.

5 Q. Now, the next sentence says that officers will  
6 visibly check occupants including children and  
7 other adults in the household as for their safety  
8 and well-being when reasonable and possible.

9 Do you see that?

10 A. Yes.

11 Q. Now, were there any children or other adults  
12 there besides Stacie and Corey McGuire on  
13 November 8th of 2017?

14 A. No.

15 Q. Number four on page two says that officers or  
16 someone will obtain medical treatment for the  
17 victim when appropriate.

18 Do you see that?

19 A. Yes.

20 Q. Was there any medical treatment that was obtained  
21 either for Corey or Stacie McGuire on November  
22 8th, 2017?

23 A. No.

1 Q. Okay. So even though an ambulance was staged,  
2 there were no other steps that were taken to  
3 obtain medical treatment for either Corey or  
4 Stacie, correct?

5 A. Correct.

6 Q. And when an ambulance is staged, where is it  
7 staged, is it staged at the scene?

8 A. No, but close proximity.

9 Q. I guess, what does that mean, close proximity?  
10 Does that mean that the ambulance is on the way?

11 A. No. It could mean they're around the corner or  
12 down the street, just not at the scene.

13 Q. Is there any reason why they would stay around  
14 the corner or down the street rather than right  
15 at the scene?

16 A. I believe their policies are they have to wait  
17 until the scene is safe, until police make the  
18 scene safe.

19 Q. All right. The next sub section on page two is  
20 that officers will conduct interviews.

21 Do you see that?

22 A. Yes.

23 Q. Okay. Interviews were conducted of Corey and

1           Stacie, correct?

2       A.   Yes.

3       Q.   And for you, you conducted an interview of Corey  
4           McGuire, but not Stacie McGuire, correct?

5       A.   Correct.

6       Q.   The next step is collecting evidence including  
7           sworn affidavits whenever possible, and where  
8           appropriate, to take photographs of injuries  
9           and/or property damage.

10               Do you see that?

11      A.   Yes.

12      Q.   Now, that section when you were trained, is it  
13           the expectation that officers take sworn  
14           affidavits from both the victim and the  
15           Defendant?

16      A.   No.

17      Q.   Okay. Why are sworn statements not taken from  
18           the Defendant or the perpetrator?

19      A.   There's, obviously, Miranda issues. They would  
20           have to waive their Miranda rights.

21      Q.   Is there any effort to ask the Defendant if they  
22           would like to waive their Miranda rights and  
23           provide a statement?



1 A. No.

2 Q. It also says in part five of page two to take  
3 photographs of the injuries and/or property  
4 damage.

5 Do you see that?

6 A. Yes.

7 Q. Okay. That wasn't done here, correct?

8 A. To my knowledge, no.

9 Q. Okay. You didn't take any photographs of the  
10 injuries or property damage, correct?

11 A. I did not.

12 Q. Okay. And there was property damage because  
13 Corey McGuire alleged that his glasses were  
14 broken?

15 A. Yes.

16 Q. And he also alleged injuries to his face as well  
17 as his ribs, correct?

18 A. Yes.

19 Q. But photographs were not taken of either of those  
20 injuries, correct?

21 A. To my knowledge, no.

22 Q. And there was also indications that Officer  
23 Wesoloski or other officers noticed redness to

1 Stacie McGuire's eye, correct?

2 A. In the report, yes.

3 Q. Okay. And as part of your training, would that  
4 trigger an obligation or a duty for the officers  
5 to take photographs of the redness to her eye?

6 A. I'm not sure.

7 Q. If it was part of the domestic incident, the  
8 violence, the struggle between the two parties,  
9 would officers take photographs of the redness to  
10 Stacie McGuire's eye?

11 A. Yes.

12 Q. That would have been something that you would  
13 have been trained on to do?

14 A. Yes.

15 Q. Okay. But that wasn't done here either, right?

16 A. To my knowledge, no.

17 Q. Okay. So I'm going to ask you to turn to page  
18 three. Now, do you see number two, the number  
19 two on there?

20 A. Yes.

21 Q. And do you see where it lists primary aggressor?

22 A. Yes.

23 Q. Okay. Sub section A says that officers are not

1           required to arrest both or all parties involved  
2           in a domestic, however the, in quotes, primary  
3           physical aggressor shall be arrested.

4           Do you see that?

5       A.   Yes.

6       Q.   Now, I think you talked about this a little  
7           earlier, that part of your standard procedure is  
8           to arrest the primary physical aggressor.

9           Correct?

10      A.   Yes.

11      Q.   So that was something that you were trained on,  
12           correct?

13      A.   Yes.

14      Q.   Okay. Are there steps that you as officers take  
15           to determine who the primary physical aggressor  
16           is?

17      A.   Yeah.

18      Q.   Okay. Do you know off the top of your head what  
19           factors or steps you take to determine who the  
20           primary physical aggressor is?

21      A.   Just off the top of my head, obviously, injuries  
22           would be the -- one of the key factors in it. I  
23           can't think of anything else.

1 Q. Now, does the primary physical aggressor refer to  
2 the person who first uses physical violence?

3 A. No.

4 Q. Okay. Could it be possible that the person who  
5 first used physical violence is not the primary  
6 physical aggressor?

7 A. Yes.

8 Q. And would that, in those circumstances where  
9 somebody initially uses physical violence, would  
10 the primary physical aggressor -- could the  
11 primary physical aggressor be the person who uses  
12 violence and escalates it, escalates the  
13 situation?

14 A. Yes.

15 Q. Uses more physical violence than what the initial  
16 physical aggressor used?

17 A. Yes.

18 Q. Okay. Now, on page seven to eight at the very  
19 bottom as part of this Exhibit 13, it lists  
20 primary aggressor. Do you see that?

21 A. Yes.

22 Q. And it gives a definition for what a primary  
23 aggressor is?

1 A. Um-hum. Yes. I'm sorry.

2 Q. Okay. And it was kind of what you were talking  
3 about before where the primary physical aggressor  
4 is not necessarily the person who was first to  
5 use force?

6 A. Correct.

7 Q. So you agree with that?

8 A. Yes.

9 Q. Okay. Now, the next sentence says during the  
10 officer's investigation to determine who was the  
11 primary physical aggressor, the officer shall  
12 consider -- on page seven of Exhibit 13, the next  
13 sentence says during the officer's investigation  
14 to determine who was the primary physical  
15 aggressor, the officer shall consider the  
16 following.

17 You see that, correct, Officer?

18 A. Yes.

19 Q. And on page eight it gives four factors?

20 A. Yes.

21 Q. Now, I'm going to just ask you to review those  
22 four factors, I won't read them.

23 A. Okay.

1 Q. Now, in reviewing these four factors, would you  
2 say that you used these four factors when  
3 determining who was the primary physical  
4 aggressor in this case?

5 A. Yes.

6 Q. Ultimately you determined that Stacie McGuire was  
7 the primary physical aggressor, correct?

8 A. As a group, yes. As the other officers there,  
9 yes, we determined that.

10 Q. You were part of that group that ultimately  
11 determined that Stacie McGuire was the primary  
12 aggressor, correct?

13 A. Yes.

14 Q. What factors did you use to determine that Stacie  
15 McGuire was the primary physical aggressor?

16 A. Mostly the injuries to Mr. McGuire and the  
17 property damage. That's mainly it.

18 Q. Okay. So there was no consideration of the third  
19 factor whether any person had a prior history of  
20 domestic violence that the officer can reasonably  
21 obtain, ascertain?

22 A. I don't remember if we had that information at  
23 the time or not.

1 Q. Okay. But normally that would be the information  
2 that would be used by officers to determine who  
3 the primary physical aggressor is?

4 A. If you have that information.

5 Q. That prior call that we looked at, July 9th,  
6 2017, it's marked as Exhibit 8, would that prior  
7 call be used to determine who the primary  
8 physical aggressor was?

9 A. I wouldn't know.

10 Q. Okay. Even though Stacie McGuire is noting that  
11 she is fearful for her husband who has PTSD?

12 A. I wasn't at that one, so I don't know the ins and  
13 outs of what happened there, so --

14 Q. But that would have been a call that was  
15 available to you or could have been available to  
16 you and the other officers who responded to the  
17 call, correct?

18 A. Yeah. We can see this, yes.

19 Q. Okay. Are there times that you respond to a  
20 domestic incident or domestic violence call and  
21 there's a prior DV complaint that involved  
22 officers that responded that didn't include you?

23 A. Yes.

1 Q. Okay. Would you still use those prior complaints  
2 even though you didn't respond to that call?

3 A. Depending on what the complaints were, yes.

4 Q. Okay. And you would use those to determine,  
5 those prior complaints, to determine who the  
6 primary physical aggressor was for the incident  
7 that you were responding to, correct?

8 A. Possibly.

9 Q. If you wanted more information on the outcome of  
10 a prior call, would you ever call up officers who  
11 actually responded to the call to get their input  
12 and their take on what actually happened?

13 A. Yes.

14 Q. Have you done that before when investigating a DV  
15 complaint?

16 A. I can't think of a specific time, so I guess I  
17 don't remember. Not really sure.

18 Q. Okay. Now, the last bullet point is whether any  
19 such person acted defensively to protect himself  
20 or herself or a third person from injury.

21 Do you see that?

22 A. Yes.

23 Q. And you said before that was not considered by



1           you or the other officers in determining who was  
2           the primary physical aggressor?

3   A.   Just in the case of Corey, he was defending  
4           himself.

5   Q.   What about for Stacie and her claim that she was  
6           defending herself from Corey who was physically  
7           aggressive towards her?

8   A.   Yeah. I don't remember her conversation.

9   Q.   Okay. But you also didn't have a conversation  
10          with her, correct?

11   A.   I don't remember having one, no.

12   Q.   Okay. But Officer Wesoloski did have a  
13          conversation with Stacie McGuire, right?

14   A.   Yes.

15   Q.   But you don't recall whether Officer Wesoloski  
16          told you that Stacie said that she was defending  
17          herself, correct?

18   A.   I don't.

19   Q.   Had you known that, would that be a factor that  
20          you would consider in determining who the primary  
21          physical aggressor was?

22   A.   Yes.

23   Q.   Okay. Now, you said that it was mostly the first

1       bullet point, the first factor on page eight,  
2       that you guys considered when determining the  
3       primary physical aggressor, correct?

4   A.   Yes.

5   Q.   So we're looking at the comparative severity of  
6       any injuries inflicted by the parties, is that  
7       correct?

8   A.   Yes.

9   Q.   Okay.   So Corey McGuire alleged that he had  
10       scratches on his face, right?

11  A.   Yes.

12  Q.   And you used that to compare to the injuries that  
13       Stacie was alleging that she also had?

14  A.   Yes.

15  Q.   Okay.   Did you factor in at all the redness to  
16       Stacie's eye when looking at this first factor?

17  A.   I don't remember seeing the redness to her eye,  
18       so --

19  Q.   What about other officers at the scene, would  
20       they use the redness in her eye to compare the  
21       injuries of her versus Corey?

22  A.   Yes.

23  Q.   Okay.   Do you recall that taking place?

1 A. I don't.

2 Q. So you don't know as you sit here today whether  
3 the redness in Stacie's eye was ever compared to  
4 the scratches to Corey McGuire's face?

5 A. I don't remember the redness to her eye, so --

6 Q. Okay. So I want you to go back to page three.  
7 For number two sub section C, do you see where it  
8 says the arrest of the primary physical aggressor  
9 does not prohibit the officer from arresting both  
10 or all parties?

11 A. Yes.

12 Q. Was there any discussion of arresting Corey  
13 McGuire on November 8th of 2017?

14 A. I don't remember.

15 Q. If it was -- has there ever been a circumstance  
16 or a situation where you arrested both the  
17 primary physical aggressor as well as the alleged  
18 victim?

19 A. There have been incidents where I've arrested  
20 both parties in a domestic, yes.

21 Q. Did that ever happen before November 8th of 2017?

22 A. I don't remember the date on that.

23 Q. Now, you don't recall there being a discussion of

1       arresting Corey McGuire that night, correct?

2       A.   I don't.

3       Q.   Okay.  Now, if Stacie McGuire is alleging that  
4       night that Corey McGuire punched her in the face,  
5       would that result in officers at least having the  
6       discussion of whether or not to arrest Corey  
7       McGuire?

8       A.   Can you say that again?  I'm sorry.

9       Q.   If Stacie McGuire alleged in her statement that  
10       Corey McGuire punched her in the face, would that  
11       typically result in officers at least having the  
12       conversation of whether to arrest Corey McGuire?

13       A.   Possibly.

14       Q.   But in this case, you're not sure if there was  
15       any discussion whether Corey McGuire should be  
16       arrested for punching Stacie McGuire in the face?

17       A.   I don't remember any conversations with Stacie.

18       Q.   Now, on page three sub section D, it says that  
19       acts for which one party claims self defense as a  
20       justification shall be thoroughly investigated  
21       and documented by the reporting officer.

22               Do you see that?

23       A.   Yes.

1 Q. Now, Stacie McGuire was claiming that she  
2 scratched Corey McGuire in self defense. How  
3 would that be investigated by officers?

4 A. I guess just comparing the two stories, and then  
5 whatever physical evidence would be there.

6 Q. And it also says that it would be documented by  
7 the reporting officers, correct?

8 A. Yes.

9 Q. Where would it be documented?

10 A. I would assume in the domestic incident report.

11 Q. Okay. And we can look at it again. I believe  
12 it's Exhibit 9 is the typed version? Or, Exhibit  
13 10 is the typed version.

14 Now, in reviewing that narrative, is there  
15 any discussion about Stacie McGuire allegedly  
16 scratching Corey McGuire in self defense?

17 A. Yes.

18 Q. Okay. What does it say?

19 A. Offender stated she scratched at him to get him  
20 to stop.

21 Q. Now, is there any other mention in that narrative  
22 of Stacie McGuire's allegations of self defense?

23 A. No.

1 Q. Based on training that you've received on this  
2 policy, would that constitute thoroughly  
3 investigating and documenting a self defense as a  
4 justification?

5 MR. HRICZKO: Can you repeat his question? I'm  
6 sorry.

7 (Whereupon, the above-requested question was  
8 then read back by the reporter.)

9 THE WITNESS: Yes.

10 BY MR. DAVENPORT:

11 Q. So that one line saying that Stacie McGuire  
12 scratched Corey McGuire in self defense, that  
13 would be, in your opinion, thoroughly  
14 investigating and documenting her allegations of  
15 self defense?

16 A. Yes.

17 Q. Okay. Now, when documenting allegations of self  
18 defense, would it be formality officers to also  
19 include in their narrative circumstances leading  
20 to that need for self defense?

21 A. Yeah.

22 Q. Would it also include allegations of what the  
23 individual was doing to that individual who

1           needed to use self defense?

2       A.   Yes.

3       Q.   But those aren't included in the narrative,  
4           correct?

5       A.   I don't see them, no.

6       Q.   Okay. And based on everything that we've seen  
7           here today, that isn't documented anywhere except  
8           for the DIR report that was completed by Stacie  
9           McGuire, correct?

10      A.   The --

11      Q.   So the DIR report that was completed by Stacie  
12           McGuire or alleged to you by Stacie McGuire,  
13           that's the only place where it includes Stacie  
14           McGuire's allegations of Corey choking her and  
15           punching her in the face, correct?

16      A.   Yes.

17      Q.   That's not documented in any other paperwork that  
18           we've seen besides Stacie McGuire's DIR report,  
19           correct?

20      A.   Correct.

21      Q.   Okay. Would that be information that is  
22           important when one party is claiming self defense  
23           as a justification for their use of force?

1 A. Yes.

2 Q. Okay. To the best of your knowledge, does the  
3 domestic violence policy require officers to  
4 investigate every allegation of domestic  
5 violence?

6 A. I'm not sure what you mean.

7 Q. When an individual makes an allegation of  
8 domestic violence to a Town of Cheektowaga Police  
9 Officer, does your policy require officers to  
10 investigate that allegation?

11 A. Yes.

12 Q. Okay. As you sit here today, do you know if  
13 Stacie McGuire's allegations of domestic violence  
14 were ever investigated by the Town of Cheektowaga  
15 Police Department?

16 A. Which time? This her second record.

17 Q. The DIR report that she completed that's Exhibit 9.

18 A. No, I don't.

19 Q. Okay. You don't know if those allegations were  
20 ever investigated, correct?

21 A. I don't know.

22 Q. Okay. When completing a DIR report for an  
23 alleged victim of domestic violence, do officers



1 typically ask a victim whether they want to  
2 pursue charges?

3 A. It depends on what transpired.

4 Q. Now, I'm showing you Exhibit 9 again. Do you see  
5 in the middle of the first page where someone  
6 wrote victim wants to press harassment charges  
7 against the suspect?

8 A. Yes.

9 Q. Okay. Is that something that's typically done  
10 when officers are completing these DIR reports?

11 A. So a dispatcher completed this report, so that's  
12 a little different than an officer completing  
13 that report.

14 Q. Okay. Now, do the Town of Cheektowaga Police  
15 Officers, do they receive this DIR report after  
16 it's completed by a dispatcher?

17 A. No. A detective will receive it after it's done  
18 by a dispatcher.

19 Q. Okay. So a Town of Cheektowaga Detective would  
20 receive it?

21 A. Should.

22 Q. And would it then be their responsibility to  
23 investigate the report?

1 A. Yes.

2 Q. Investigate the allegations?

3 A. Yes.

4 Q. Okay. Do you know, as you sit here today, what a  
5 detective would typically do to investigate  
6 allegations contained in the DIR report?

7 A. I can only speculate. I don't know.

8 Q. Okay. Because you've never worked as a  
9 detective?

10 A. Correct.

11 Q. Okay. I'm going to show you what's been marked  
12 as Exhibit 14. Do you recognize that document?

13 A. Yes.

14 Q. What is that document?

15 A. It's a policy on prisoner medications.

16 Q. Okay. Have you been trained on this policy?

17 A. Yes.

18 Q. Did you receive training on this policy prior to  
19 November 8th of 2017?

20 A. Yes.

21 Q. Now, this is, as we can see underneath the  
22 purpose, it appears that this policy pertains to  
23 prisoners who have medication on them when

1       they're taken to the holding center, is that  
2       correct?

3       A. Not to the holding center, but to our facility,  
4       yes.

5       Q. To your facility. To the best of your knowledge,  
6       does the Town of Cheektowaga or the Town of  
7       Cheektowaga Police Department have any sort of  
8       policy or procedure for prisoners who are taken  
9       to your facility who don't have their medications  
10      on them?

11      A. I'm not aware.

12      Q. Okay. In your experience as a Town of  
13      Cheektowaga Police Officer, have you ever had  
14      individuals taken to your facility who have a  
15      need for serotonins or other medications for  
16      mental health illness?

17      A. I don't remember.

18      Q. Okay. Are you familiar with medications for  
19      mental health illness, serotonins, for instance?

20      A. Not particularly, no.

21      Q. Are you aware that individuals who take those  
22      types of medications needs to have them  
23      consistently?

1 A. No.

2 Q. Okay. So you never received training on  
3 individuals who require serotonins or other  
4 medications for mental health?

5 A. Not with as to what the medication does, no.

6 Q. Okay. Have you ever been trained on or has it  
7 ever been explained to you by somebody with the  
8 Town of Cheektowaga Police Department or Town of  
9 Cheektowaga in general that individuals who take  
10 serotonins or medications for mental health, they  
11 need to have consistent medication?

12 A. I don't remember.

13 Q. If an individual who required serotonins or other  
14 medications for mental health requested that you  
15 or other officers obtain those medications for  
16 them, would you be able to obtain that  
17 medication?

18 A. If it was reasonable, yes.

19 Q. And how would you go about obtaining that  
20 medication?

21 A. Well, if they had it prescribed to them, they  
22 just needed us to run to their house to get it,  
23 we could do that.

1 Q. Okay. So if an individual, let's say, was in the  
2 back of your police vehicle and told you that  
3 they needed their serotonins or mental health  
4 medication, you would be able to put in a request  
5 that officers go back to their house to obtain  
6 that medication?

7 A. Yes.

8 Q. And then would that medication be administered to  
9 that person while they're being held in the  
10 holding center facility?

11 A. That depends.

12 Q. What does that depend on?

13 A. Well, we can't administer medicine, so we have to  
14 request an ambulance to come do that and that's  
15 up to them.

16 Q. Okay. So I guess the sequence of events would  
17 work that a person makes a request in your  
18 vehicle while they're being transported for  
19 medications. You would then put a request out  
20 that an officer go back to their house?

21 A. As long as it's reasonable, yes.

22 Q. Would you personally go if you were driving the  
23 suspect?

1 A. No.

2 Q. Okay. And then after, if those medications are  
3 found at the person's house by a police officer  
4 with the Town of Cheektowaga, what would the next  
5 step be?

6 A. They can bring those medicines to our facility.

7 Q. And then would that officer just drop off the  
8 medications at the facility?

9 A. Generally.

10 Q. And then would the request be made by you or the  
11 officers who picked up the medications to have  
12 somebody come and administer the medications?

13 A. It would depend on -- we have matrons and  
14 attention officers. We would actually explain  
15 that situation to them and then they would make  
16 that determination.

17 Q. But there is the ability at your facility for  
18 either a matron or somebody else to administer  
19 those medications if necessary?

20 A. No. We can't administer any medication.

21 Q. Who would be the individual that would administer  
22 the medication?

23 A. So how it goes is we contact AMR, the ambulance

1 company. They come out and they administer the  
2 meds.

3 Q. Okay. So does the matron make the determination  
4 that the medication is appropriate?

5 A. No.

6 Q. I guess, so what role does the matron play, then?

7 A. She's the go between. If somebody requests the  
8 medicine, then she needs to contact the  
9 supervisor who will then contact our dispatch to  
10 get ahold of AMR to determine whether the  
11 medication is to be given or not.

12 Q. Okay. Now, as you sit here today, do you know,  
13 did Stacie McGuire make any requests for her  
14 medication on November 8th of 2017?

15 A. That I don't know.

16 Q. Okay. At any time while you were responding to  
17 the scene, did she make any statements about her  
18 being on medications?

19 A. I don't remember.

20 Q. Did she ever make any statements about her being  
21 mentally disabled?

22 A. I don't remember.

23 Q. Okay. As you sit here today, do you know if

1 Stacie McGuire is mentally disabled in any way?

2 A. No, I don't.

3 Q. Okay. Do you know, does Corey McGuire have any  
4 mental disability in any way?

5 A. Not that I'm aware of.

6 Q. In talking with Corey McGuire, he never told you  
7 that he's mentally ill or anything like that?

8 A. Not that I remember.

9 Q. Do you know when Stacie McGuire was arraigned for  
10 these criminal charges?

11 A. I don't know.

12 Q. Do you know, was she held overnight at your  
13 facility?

14 A. Yes.

15 Q. Okay. Are you familiar with an individual named  
16 Jeanette?

17 A. I believe so.

18 Q. Is she somebody that works with the Town of  
19 Cheektowaga Police Department?

20 A. Do you know her title, by chance?

21 Q. I want to say that she's a domestic violence  
22 counselor?

23 A. Okay. Yes.



1 Q. And she works with the Town of Cheektowaga Police  
2 Department or worked with the Town of Cheektowaga  
3 Police Department?

4 A. Yes.

5 Q. Okay. Do you know, was she involved at all with  
6 this incident?

7 A. I have no idea.

8 Q. Okay. Was there any discussion between you and  
9 Jeanette about Stacie or Corey McGuire?

10 A. No.

11 Q. Have you ever had any conversations with  
12 Jeanette?

13 MR. HRICZKO: About this case or at all?

14 MR. DAVENPORT: In general.

15 THE WITNESS: In general, yes.

16 BY MR. DAVENPORT:

17 Q. Okay. And typically when you have those  
18 conversations, do they pertain to domestic  
19 violence incidents?

20 A. Yes.

21 Q. Do you know what her role or responsibility is?

22 A. I just know she's an advocate for victims of  
23 domestic violence.

1 Q. In this specific case, do you know, was Jeanette  
2 an advocate for either Corey or Stacie?

3 A. I don't know.

4 Q. Now, in your time with the Town of Cheektowaga  
5 Police Department, has it ever occurred where you  
6 arrested somebody that you believed to be the  
7 primary physical aggressor and it's later  
8 determined that the other person involved, the  
9 alleged victim, was the primary physical  
10 aggressor?

11 A. No, not that I remember.

12 Q. Okay. Do you know if that happened in this case?

13 A. What's that?

14 Q. Do you know if that happened in this case?

15 A. No.

16 MR. DAVENPORT: All right. No further questions.

17 MR. HRICZKO: Okay. That's it. You're done.

18

19 \* \* \* \* \*

20

21

22

23

1 I HEREBY CERTIFY that I have read the  
2 foregoing 105 pages and that, except as to those  
3 changes set forth in the attached errata form(s),  
4 they are a true and accurate transcript of the  
5 testimony given by me in the above-entitled  
6 action on October 21, 2022.

7  
8  
9  
10 -----  
11 JOSE DOMENECH  
12  
13

14 Sworn to before me this

15  
16 ----- day of ----- 2022.  
17  
18

19 -----  
20 Notary Public.  
21  
22  
23

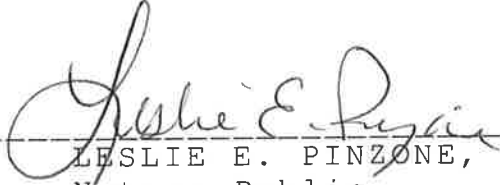
1 STATE OF NEW YORK)

2 SS:

3 COUNTY OF ERIE)

4  
5 I, Leslie E. Pinzone, a Notary Public in and  
6 for the State of New York, County of Erie, DO  
7 HEREBY CERTIFY that the testimony of JOSE  
8 DOMENECH was taken down by me in a verbatim  
9 manner by means of Machine Shorthand, on October  
10 21, 2022. That the testimony was then reduced  
11 into writing under my direction. That the  
12 testimony was taken to be used in the  
13 above-entitled action. That the said deponent,  
14 before examination, was duly sworn by me to  
15 testify to the truth, the whole truth and nothing  
16 but the truth, relative to said action.

17 I further CERTIFY that the above-described  
18 transcript constitutes a true and accurate and  
19 complete transcript of the testimony.

20  
21   
22 \_\_\_\_\_  
23 LESLIE E. PINZONE,  
Notary Public.

ERRATA FORM

PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CORRECTION: \_\_\_\_\_

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## Jose Domenech

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